

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
STATEMENT OF CAPTAIN ROBERT C. NORTH
ON THE NATIONAL CONTINGENCY PLAN
BEFORE THE SUBCOMMITTEE ON COAST GUARD AND NAVIGATION
COMMITTEE ON MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES
SEPTEMBER 24, 1992

Good afternoon, Mr. Chairman and distinguished members of the Subcommittee. I am Captain Robert North, Deputy Chief of the Office of Marine Safety, Security, and Environmental Protection. I would like to thank you for holding this hearing to give both the Coast Guard, and the public an opportunity to address this important topic.

I know you appreciate the complexity of the task laid out for us by the Oil Pollution Act of 1990 (OPA 90) and I believe that progress has been made in carrying out its numerous mandates. As a result of the enactment of OPA 90, the Coast Guard, the Environmental Protection Agency (EPA) and other Federal agencies initiated more than 80 projects, studies, and regulatory changes, including the development of a system of preparedness plans to aid all of us in optimizing the capabilities of the entire response community -- to face a worst- case discharge. As you are aware, this system of plans includes several levels:

- The National Contingency Plan (NCP)
- Area Contingency Plans (ACPs)
- Facility Response Plans
- Vessel Response Plans

You have expressed a number of valid concerns because the revisions to the NCP are not complete. These include concern regarding lack of coordination and the possibility that vessel and facility operators may have to rewrite their plans at substantial additional costs as soon as the NCP and ACPs are published. I hope that my remarks this afternoon will ease those concerns and illustrate that substantial progress is being made in preparedness planning.

As you know, the Coast Guard has been working with the EPA on the update of the National Contingency Plan to incorporate the enhanced preparedness and response mechanisms that were created by OPA 90. The Coast Guard, as the lead Federal agency for coastal response, supports EPA with its responsibility for promulgating changes to the NCP in cooperation with the thirteen other Federal agencies comprising the National Response Team (NRT).

It was readily apparent to all Federal agencies involved that our goal to properly and quickly update the NCP was going to be slowed by the numerous other taskings contained in OPA 90 that would have to be accomplished simultaneously with the NCP revision. For the Coast Guard, a critical first step was the categorizing of various studies and regulatory packages under our purview, and determining which ones needed to be addressed in order to complete the NCP.

Also, we needed to: establish a "funds management organization" for the Oil Spill Liability Trust Fund (the Fund), which we now know as the National Pollution Funds Center (NPFC); design and establish the National Response Unit which we now know as the National Strike Force Coordination Center (NSFCC) in Elizabeth City, North Carolina; and begin work with EPA on Area Committee and Area Contingency Plan (ACP) concepts and policy.

Our Marine Environmental Protection Division at Coast Guard Headquarters has been working in concert with NPFC, the NSFCC, and the EPA to develop and implement policy and procedures relevant to the National Response System and the National Contingency Plan.

We have been and are continuing to provide review and comment to the EPA in their regulatory process to rewrite the NCP. All of the Coast Guard issues and concerns have been addressed and we await a final draft Notice of Proposed Rule Making (NPRM) from the EPA to be routed for clearance. The Coast Guard will continue to make every effort to assist the EPA in expediting the administrative processing which must precede publication of an NPRM in the Federal Register, including speeding internal review and assistance with obtaining clearances from the Department of Transportation, OMB, and other agencies.

From the outset, we recognized that making revisions to the NCP and implementing other provisions of OPA 90 would be a lengthy

and interactive process. OPA 90 mandates that the ACPs must be consistent with the NCP, and the vessel and facility response plans must be consistent with both the NCP and the ACPs. This consistency among plans requires concurrent development of the frameworks for each of them.

For the coastal zone, the area of Coast Guard responsibility, this iterative process was accomplished by assigning oversight for the development of the concepts for these three different planning levels to our Headquarters Marine Environmental Protection Division. The daily interaction of the project officers within our staff has provided a sound understanding of the substance of the NCP revisions related to all three planning levels as well as continuity among these levels. From this understanding, we have developed and are disseminating specific guidance to allow the development of ACPs, along with vessel and facility response plans, which will be consistent with the revised NCP, and produce a cohesive structure of government and industry plans.

On January 16, 1992, the Coast Guard published a Notice in the Federal Register describing the process we intended to follow in appointing Area Committee members and in designating Area Committee responsibilities to produce an Area Contingency Plan. In March, 1992, we provided draft guidance concerning the format for the Area Contingency Plan to our District Marine Safety Divisions for their review and comment. On April 24, 1992, we

published a Federal Register Notice designating the area boundaries for area contingency planning purposes. Our Captains of the Port (COTPs), as Area Committee chairmen, have been directed to work aggressively with the local community to establish Area Committees and focus those committees on reaching their planning goals. The COTPs and Area Committees are continually reminded of the critical need to include all members of the community in the area planning process. A message summarizing and clarifying all previous guidance was sent to our Captains of the Port on June 29, 1992. In the next few weeks we will issue a servicewide directive, formalizing this guidance and providing specific details relating to the nationwide standardized format for the Area Contingency Plan. Also, we are preparing to distribute to our field units and the industry two Navigation and Inspection Circulars (NVICs) which will provide detailed guidance to vessel and facility operators regarding the format and content requirements, and the review criteria and process, for vessel and facility response plans.

The Area Contingency Plan concept is modeled on the Local Contingency Plans (LCP) which have been prepared and maintained by our Captains of the Port since the 1970's. These local plans were updated in the aftermath of the M/V EXXON VALDEZ incident, to address the worst-case scenario in each port, including response concerns related to sensitive areas, response resource needs (quantity and types), protection strategies, etc. In short, the LCPs address all the essential elements that will be

required in the ACPs and, in particular, the elements with which the vessel and facility response plans must be consistent.

The primary difference between the LCP and the ACP is the level of participation and commitment of response community members outside the Coast Guard. The LCP is a Coast Guard document prepared with input from, but without the direct involvement of, the local response community. On the other hand, the ACP, which will ultimately replace the LCP, will be prepared by a committee chaired by the Coast Guard, but which seeks the full involvement, consensus and commitment of the response community.

Because of the consistency between the LCP and the ACP as well as the iterative nature of the planning process, our Captains of the Port were instructed last July that the local plan in effect on August 18, 1992 is the plan with which the vessel and facility response plans (required by February 18, 1993) must be consistent. COTPs have also been instructed to maximize the availability of the appropriate plan for use by the industry in preparing their plans. We understand that this message has received wide distribution throughout industry and they are beginning to request copies of the plans from our COTPs.

The intent of this process is that a vessel or facility response plan which is consistent with a particular local plan and the appropriate NVIC will not have to be rewritten solely to align with an ACP, the NCP or the final rules for vessel or facility

response plans subsequently published. Therefore, even while we continue toward finalizing the formal NCP revisions, we believe the steps we have taken to provide guidance to Coast Guard field units and industry will minimize any consistency problems involving response plans.

Again, I thank you for this opportunity, and will be pleased to answer any questions you may have on this issue.